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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

FRIENDS OF YOSEMITE VALLEY,)
et al.,)
)
Plaintiffs,)
)
v.)
)
DIRK KEMPTHORNE, in his)
official capacity as Secretary of)
the Interior, et al.,)
)
Defendants.)

Case No. CV-F-00-6191 AWI DLB

DECLARATION OF PATRICK
D. FLYNN IN SUPPORT OF
DEFENDANTS' MOTION FOR
STAY PENDING APPEAL

DATE: February 26, 2007
TIME: 1:30 p.m.
PLACE: Courtroom 2
JUDGE: Hon. Anthony W. Ishii

I, Patrick D. Flynn, declare as follows:

1. I received a Bachelor of Science degree in Civil Engineering from the University of
Kansas in May, 1980. I have been employed by the Federal Highway Administration since June,

1 1980, and have been a licensed professional engineer since February, 1987. Since December,
2 2001, I have been working as a Project Manager for the Federal Highway's Central Federal
3 Lands Highway Division in Lakewood, Colorado. During the past five years, I have been
4 responsible for managing roadway design and construction projects in Yosemite National Park,
5 Sequoia and Kings Canyon National Park, Death Valley National Park, Joshua Tree National
6 Park, Lava Beds National Monument, and also several Forest Highway projects in northern
7 California.

8 2. The purpose of this declaration is to discuss the existing deficiencies of the Yosemite
9 Valley Loop Road, and the negative impacts associated with delaying the completion of this
10 roadway rehabilitation project. To illustrate the distress of the existing road conditions, I will
11 focus on two sources of documentation; (1) National Park Service/Federal Highway
12 Administration's Road Inventory Program and (2) the *Rehabilitation of the Yosemite Valley Loop*
13 *Road Environmental Assessment*.

14 3. **Road Inventory Program.** The Road Inventory Program (RIP) was jointly
15 established by the National Park Service and the Federal Highway Administration to develop
16 long and short-range costs and programs in response to rapidly deteriorating National Park
17 Service roads. The RIP identifies specific deficiencies for individual road segments and provides
18 recommendations for actions needed to bring a particular roadway up to (or maintain) its
19 designated standards based upon topography and traffic volumes, as well as establish a
20 maintenance management program. Exhibit 1 provides RIP pavement data for the Yosemite
21 Valley Loop Road from two different surveys; December 1999 and August 2003. RIP data
22 shows a "snap-shot in time" of roadway conditions as they exist at the time the data was
23 acquired. Here, the 2003 data illustrates how rapidly the condition of the Yosemite Valley Loop
24 Road has deteriorated. conditions for the majority of the Yosemite Valley Loop Road in 1999
25 were rated as "FAIR", whereas the condition was deemed "POOR" just three years and eight
26 months later. The overall condition of a roadway is based on a number of variables such as
27 pavement roughness, and surface conditions as well as specific attributes such as alligator
28 cracking, rutting, patching, and transverse and lateral cracking. A Pavement Condition Rating of

1 less than 60 is considered "POOR." The 7.2 miles of the Yosemite Valley Loop Road included
2 in the rehabilitation project had an average rating of 47. Roughly half of this section of roadway
3 experienced rutting and around 60% contained alligator cracking (i.e., continuous parallel and
4 perpendicular cracking that forms a checkerboard pattern of ruptured pavement). Because the
5 condition of the roadway was inventoried and classified more than three years ago, and no major
6 rehabilitation projects have been undertaken since that time; the Yosemite Valley Loop Road in
7 2006 is in noticeably worse condition than it was in 2003. Turning attention to Exhibit 1, and
8 specifically the RIP pavement data results from 1999 at that time, none of the 7.2 miles included
9 in the Yosemite Valley Loop Road rehabilitation project were found to be in "POOR" condition.
10 The average Pavement Condition Rating was 71, and no alligator cracking was found.

11 4. Since 2004, minor temporary repairs have been performed on the Yosemite Valley
12 Loop Road but these repairs *have not corrected the major problems* with the roadway. Minor,
13 temporary repairs include a micro seal on portions of the roadway, annual pothole repairs, and
14 the recent culvert improvements, between El Capitan Crossover and Sentinel Driver on
15 Southside Drive, that were approved by the court on Monday, October 16, 2006. A micro seal is
16 a very thin layer of small aggregate asphalt, overlaid on top of the existing roadway surface and
17 is designed to temporarily mitigate a cracked surface by making it "smooth." A micro seal does
18 not correct subgrade deficiencies of the roadway. Annual pothole repairs consist of filling
19 potholes with cold asphalt. Culvert repairs approved by the court this fall that are currently
20 underway, represent only a portion (approximately one-third) of total culvert repairs needed.
21 Numerous culverts along other sections of the Yosemite Valley Loop Road remain to be
22 repaired.

23 5. The further stressed a roadway becomes, the quicker it deteriorates as evidenced by
24 the rapid deterioration the roadway is currently experiencing. Without immediate rehabilitative
25 work, the current problems with pavement rutting, cracking, potholes, shoulder degradation, and
26 slope failures will become progressively worse. These problems pose a threat to the safety of
27 Park staff and the traveling public, such as swerving to avoid potholes or dropping a tire off the
28 edge of a deteriorated shoulder, and either going down the slope or over-correcting and crossing

1 into an oncoming lane of traffic. A key point to note is that the rate of deterioration for a
2 roadway is not linear. Rather, it accelerates annually as the progressive rutting and cracking
3 facilitates the intrusion of more surface water, accelerating the freeze-thaw deterioration and
4 degradation of the subgrade. Many factors contribute to the deterioration of a roadway such as
5 the traffic volumes, amount of heavy truck traffic, number and severity of freeze-thaw cycles,
6 annual amount of precipitation (i.e., rain and snow accumulation), and time. Any further delay
7 in rehabilitating the Yosemite Valley Loop Road will certainly exacerbate the deterioration
8 because time is a constant factor working against the stability of a heavily weathered roadway
9 with high traffic volumes. With this in mind, the Federal Highway Administration and the NPS
10 originally planned to rehabilitate the road during the fall of 2006. The litigation related delays
11 associated with this project will certainly lead to further accelerated deterioration of the roadway
12 which increases the likelihood of impacts to the safety of the traveling public.

13 **6. Rehabilitation of the Yosemite Valley Loop Road Environmental Assessment.** In
14 December 2005, the National Park Service released an environmental assessment (EA) for the
15 rehabilitation of the roadway. I am familiar with the EA and its findings. Numerous negative
16 impacts to resources were identified under the No Action Alternative, and consequently
17 numerous beneficial impacts were identified under both action alternatives analyzed. Exhibit 2
18 presents Table II-3: Summary of Environmental Consequences from the EA.

19 7. Additionally, the segments of roadway to be rehabilitated experience significant
20 flooding annually. It is not uncommon for sections of this roadway to be completely inundated
21 with water during spring runoff or during heavy storm events. As presented in Exhibit 3 of this
22 declaration, during the recent May, 2005, spring run-off, many miles of the Yosemite Valley
23 Loop Road were completely under water, making sections of the roadway impassable and posing
24 safety hazards to the traveling public and Park staff. These larger more extreme events, coupled
25 with smaller more frequent weather events, pose a continual threat to the proper functioning and
26 safety of the road, thereby exacerbating and increasing the rate of deterioration which makes the
27 Yosemite Valley Loop Road more hazardous even during non-weather conditions.

28 8. The major rehabilitation activities, working in combination to improve the overall

1 condition of the Yosemite Valley Loop Road, as thoroughly analyzed in the EA completed for
 2 the proposed project, include:

3 (a) Replacement of deteriorated and undersized drainage culverts, as well as adding new
 4 drainage culverts where necessary, in order to reduce the likelihood of flooding and roadway
 5 saturation which leads to pavement distress;

6 (b) Pulverization of the existing roadway, which will correct the rutting and cracking
 7 problems and provide a stable and uniform base on which to place the new asphalt surface; and

8 (c) Placement of four new inches of asphalt surface to provide a smoother and safer
 9 surface for vehicles, in addition to raising the profile (i.e., vertical) grade of the roadway by four
 10 inches, thereby reducing the length of roadway subject to flooding under the more extreme
 11 weather events.

12 9. Proceeding immediately with the Yosemite Valley Loop Road rehabilitation project is
 13 imperative in order to correct severe pavement distress experienced on several sections of the
 14 roadway, to minimize the effects to the roadway caused by flooding and freeze-thaw events, and
 15 to ultimately provide for a safer roadway for Park visitors and staff to travel on. Upon
 16 completion of this project, the National Park Service will not need to perform anything beyond
 17 light maintenance on the repaired sections of this roadway for many years. Other tangible
 18 benefits of proceeding with this rehabilitation project will be to provide a better defined roadway
 19 edge, one that will discourage resource impacts adjacent to the roadway; as well as a reduction in
 20 sedimentation and erosion occurring along the roadway edge because a more stable, engineered-
 21 base and roadway surface will be provided which will greatly reduce or eliminate the shoulder
 22 degradation and edge raveling that is currently common along this roadway.

23 I declare under penalty of perjury that the foregoing is true and correct. Executed on
 24 January 12, 2007, at Lakewood, Colorado.

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 26 _____
 27 Patrick D. Flynn, P.E.
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